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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/830,033	04/23/2004	Michael R. Duck	PAT 957-2 US	7506
26123 7590 06/15/2007 BORDEN LADNER GERVAIS LLP WORLD EXCHANGE PLAZA 100 QUEEN STREET SUITE 1100 OTTAWA, ON K1P 1J9 CANADA			EXAMINER CARTAGENA, MELVIN A	
			ART UNIT 3754	PAPER NUMBER
			MAIL DATE 06/15/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/830,033

Applicant(s)

DUCK ET AL.

Examiner

Melvin A. Cartagena

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 April 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 4-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 4, 5, 8-11, 14-16 and 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,957,747 to Peeler et al. in view of US 1,984,296 to Witter.

Peeler shows single and multiple dispensing pumps as seen in Figs. 2 and 4, and Fig. 5 respectively, having a cylindrical chamber 16, a dispensing outlet 57, and a piston 42 with a seal. A threaded drive 13 connected to the piston by coupler 14, anti-rotation device 64 with a slidable guide tube; see Fig. 3, a stepper motor 12, a user interface 24, see column 9, lines 21-34, a microprocessor 22 and wired and wireless communication ports, see column 9, lines 46 and 47. Peeler shows all claimed features as discussed above except for inlet and outlet check valves in a front flange. Witter shows a dispenser as seen in Fig. 1 having a check valves 40 and 48 in a flange with rigid inlet conduit and outlet conduits, see Fig. 1. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to modify the device of Peeler to include a flange with an intake and an outlet check valve to reduce the number of controllers needed to operate the device by allowing the fluid pressure generated by the piston to control the intake and outlet valves as taught by Witter.

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3. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,957,747 to Peeler et al. as modify by US 1,984,296 to Witter as applied to claim 5 above, and further in view of US 6,968,983 to Laible.

The Peeler-Witter combination shows all claimed features as discussed above except for a cap with a check valve for the supply container. Laible shows a cap 76 with an air intake check valve as seen in Fig. 5. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to modify the device of the Peeler-Witter combination to include a cap with a check valve to prevent liquid to back flow during transportation and installation of the container and permits ambient air to enter the interior of the container as the liquid is drawn therefrom as taught by Laible.

4. Claims 12,13 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,957,747 to Peeler et al. as modify by US 1,984,296 to Witter as applied to claims 1 and 14 above, and further in view of US 5,284,423 to Holdsworth et al.

The Peeler-Witter combination shows all claimed features as discussed above except for an acrylic container, a position sensor and a LCD interface panel. Holdsworth shows a computer controlled positive displacement pump as seen in Figs. 1 and 6, having a cylindrical chamber constructed of acrylic, position sensors 41 and 43 and a user LCD interface 25 including a button panel. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to use an acrylic container, position sensor and LCD interface in the device of the Peeler-Witter combination to permit the user of the device to see the content of the chamber, make the process of dispensing automatic and allow interaction with the device to modify the dispensing parameters as taught by Holdsworth et al.

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5. Claims 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,957,747 to Peeler et al. as modify by US 1,984,296 to Witter as applied to claim 14 above, and further in view of US 5,152,429 to Billings.

The Peeler-Witter combination shows all claimed features as discussed above except for the containers connected to a plurality of pumps in a cabinet and flexible tubes connected to a nozzle cap. Billings shows a plurality supply container 61-64 connected to a plurality of pumps 1-4 in a cabinet, as seen in Figs. 1 and 2, and a nozzle dispenser 52 connected to the individual pumps by manifold 46 and flexible tubes 51. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to use the device of the Peeler-Witter combination in a cabinet with multiple supply containers and pumps connected to a dispensing nozzle by flexible connectors to protect the dispensing mechanism and permitting the user to hand held the dispensing nozzle to multiple location while maintaining the dispensing device in one fix location as taught by Billings.

#### ***Response to Arguments***

6. Applicant's arguments with respect to claims 1 and 4-25 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvin A. Cartagena whose telephone number is (571) 272-4924. The examiner can normally be reached on T-F (7:30AM to 6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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